

**Department of  
Conservation &  
Development**

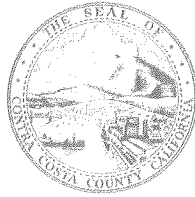
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**Contra  
Costa  
County**



**Catherine Kutsuris**  
Director

July 2, 2010

**RE: Contra Costa County Comments on the First Draft Interim Delta Plan**

Dear Chairman Isenberg and Members of the Council,

These comments are submitted on behalf of the County of Contra Costa. They are organized according to the page numbers that are used in the First Draft Interim Delta Plan (Interim Plan).

Page 4: Review of the Bay Delta Conservation Plan (BDCP) Environmental Impact Report/Environmental Impact Statement (EIR/EIS) is a significant early action that the Interim Plan should address. The Delta Stewardship Council (DSC) is a responsible agency in the development of the BDCP EIR/EIS. SBX7 1 requires the Department of Water Resources (DWR) to consult with the DSC and its Independent Science Board during development of the BDCP. The Independent Science Board must provide comments on the draft EIR/EIS. These significant actions are proposed to be substantially completed before adoption of the final Delta Plan. The Interim Plan should acknowledge that it will be used to help guide the early actions of the DSC in these phases of the BDCP. Reference to the DSC's role in the BDCP should also be included on page 8.

Page 5: Describe the type of projects eligible for Proposition IE expenditures under Water Code Section 83002(a) (1).

Page 7: The Interim Plan needs to ensure that the eight policy objectives in Water Code Section 85020 fully acknowledge other statements of goals and policies in SBX7-1, such as those in Sections 85021 through 85023, and in Public Resources Code Section 29702. This acknowledgement should occur in the descriptions of the basic legal authority for each policy objective.

Page 8: The Interim Plan's policy objective to manage the Delta's water and environmental resources over the long term needs to acknowledge the state's intent to reduce reliance on the Delta in meeting the state's future water needs. This intent is fully expressed in Section 85021 of SBX7 1 which states:

*The policy of the State of California is to reduce reliance on the Delta in meeting California's future water supply needs through a statewide strategy of investing in improved regional supplies, conservation, and water use efficiency. Each region that depends on water from the Delta watershed shall improve its regional self-reliance for water through investment in water use efficiency, water recycling, advanced water technologies, local and regional water supply projects and improved regional coordination of local and regional water supply efforts.*

The goal of reducing reliance on the Delta for the state's water supply needs is an important backdrop for many of the early actions that are shown on this page and are to be covered by the Interim Plan, such as:

- Early actions with federal agencies, particularly through incentives for efficient water use by agriculture, can help reduce reliance on the Delta for the state's water supply needs.

- Early actions by the Department of Fish & Game (DFG) and State Water Resources Control Board (SWRCB) to determine adequate Delta flows will help frame the range of water exports that the Delta can sustain.
- As mentioned previously, the DSC will be taking a number of early actions concerning the BDCP that will be critical to the objective of managing the delta's water and environmental resources and the water resources of the state over the long term. It is important for these early actions to be consistent with state policy to reduce reliance on the Delta for the state's water supply needs.

Page 9: The performance measures and targets for the Interim Plan appropriately list the development and acceptance of flow criteria developed by DFG and SWRCB. Development and acceptance of quantified biological objectives proposed by the BDCP will also have important implications for the final Delta Plan. Science plays a central role in these efforts and the Interim Plan should identify key tasks for its Independent Science Board to undertake immediately to ensure the adequacy of these performance measures and targets.

Page 9: The text describing the western extent of the secondary zone should be revised to include Pittsburg, which is west of Antioch.

Page 14: The DSC should consider whether a committee should be established to help coordinate certain actions included in the Interim Plan. Section 85204 requires the DSC to establish and oversee a committee of agencies responsible for implementing the Delta Plan. Each agency is required to coordinate its actions pursuant to the Delta Plan with the DSC and other relevant agencies. Establishing such a committee should be an early action for the DSC to consider to improve the effectiveness of the Interim Plan.

Page 14: Financing for the Delta Plan should include the activities of all state agencies that must contribute to the preparation and maintenance of the plan. Currently, the plan references the need to develop funding streams for the DSC and Conservancy. Other state agencies that have statutory responsibilities for the Delta Plan include the Delta Protection Commission (DPC), the SWRCB and the DFG. The Delta Plan should ensure that all these agencies are adequately funded to achieve the plan's objectives. There is no reason to defer development of (and support for) a feasible funding program to cover that work assigned to these state agencies.

Page 15: The Interim Plan should include a tool to organize critical information for economic sustainability. This information could be most readily communicated with a map that identifies the locations of the activities, programs and systems that will be essential to achievement of a sustainable Delta economy.

Page 15: An organization chart should be used to communicate the improved governance necessary for effective implementation of the Interim Plan. During the hearings prior to SBX7 1, such charts were developed to communicate the dysfunction of governance in the Delta. The DSC could readily prepare such an organization chart to demonstrate the governmental relationships necessary for effective implementation of the Interim Plan's early actions.

Page 15: The Delta Water Flow Plan must consider the mandate in SBX7 1 that establishes reasonable use and public trust as the foundation of the state's water policy. Section 85023 provides the DSC with legal authority to include performance measures and targets on either water diversion or water flows in the Delta to ensure such water constitutes a reasonable use

and serves the public trust. The Delta Water Flow Plan should account for the water flows to the Bay that will ensure ecosystem health, and that will be respected by diversions south from the Delta.

Page 21: DSC's review of projects should include information on funding for mitigation measures. This page describes a variety of information that the DSC will request from project proponents, including information on financing of the proposed projects. Financing of mitigation measures needed for a project should also be provided to the DSC.

Page 22: There is no justification for the proposal for a moratorium on projects by state and local agencies that are potentially covered actions. In lieu of a moratorium, the DSC should immediately initiate an inventory of covered actions underway in the planning area, and consider available processes and criteria that could be used for appeals made to the DSC prior to adoption of the Delta Plan. Appeals on covered actions in the Primary Zone could be administered using the process currently used by the DPC. SBX7 1 suggests that consistency with the restoration opportunity areas identified by the BDCP could be a basis for evaluating appeals to covered actions in the Secondary Zone.

Page 23: Opportunities for public engagement in developing of the Interim Plan must be broadly communicated as soon as possible. A statement describing these opportunities is not proposed for consideration until the Second Draft Interim Plan, which will not be released until sometime in mid-July. Announcement of public hearings and the availability of interim materials should be underway now, if adoption of the Interim Plan is anticipated in August.

Page A-10: The County looks forward to seeing its recommendations on the Interim Plan that were submitted on May 12<sup>th</sup>, addressed in the 2<sup>nd</sup> Draft of the Interim Plan. Based on our review of the 1<sup>st</sup> Draft, these recommendations still apply.

Page A-12: The policy objective on restoring the Delta ecosystem needs to consider the mandate in SBX7 1 establishing reasonable use and public trust as the foundation of the state's water policy. The Interim Plan currently does not reference this mandate as relevant to the objective of restoring the Delta ecosystem. Critical questions for the Delta Plan to answer are: 1) the amount and timing of water flows to the Bay that are needed to protect the public trust resources in the Delta; 2) how these flows affect other reasonable uses of water from the watershed, and 3) how do statutory water rights (e.g. Area of Origin, Watershed Protection Act, and Delta Protection Act) affect these flows. The Interim Plan needs to establish the expectation that these questions will be answered by the DSC through the Delta Plan.

Page A-13: The Interim Plan's performance measures and targets that support the plan's objective to restore the Delta ecosystem will be very important. The plan should identify the work expected to occur by various agencies concerning flows and biological objectives in the near future. In addition, similar to our comment on page 9, science will play a central role in these efforts and the Interim Plan should identify key tasks for its Independent Science Board to undertake immediately to ensure the adequacy of these performance measures and targets.

Page A-18: The policy objective to promote statewide water conservation, water use efficiency and sustainable water use should acknowledge the state mandate in SBX7 1 establishing reasonable use and public trust as the foundation of the state's water policy. The Interim Plan should look into opportunities to improve the efficiency of water use by agriculture. Near term opportunities in this regard may be available by engaging federal agencies responsible for the

Central Valley Project. Basic programs such as market incentives and infrastructure for efficient use of water in agriculture should be an early action for the Interim Plan.

Page A-21: The policy objective on improving water quality for human health and the environment needs to consider the mandate in SBX7 1 establishing reasonable use and public trust as the foundation of the state's water policy. In addition, the DSC should consider the water quality standards established by the Regional Water Quality Control Boards for stormwater discharges into the Delta that cities and counties must meet. These standards may be impacted by water standards developed for ecosystem restoration.

Page A-22: The policy objective to improve water conveyance and water storage needs to consider the state's intent to reduce reliance on the Delta in meeting the state's future water needs pursuant to Section 85021 of SBX7 1. This should be discussed under the basic legal authority for this policy objective.

Page A-25: Advancing levee improvements during the next two years should be a major focus of the Interim Plan. Levee improvements are a key task for meeting the Interim Plan's objective to reduce risk to people, property, and state interests in the Delta. This comment was made in our May 12, 2010 correspondence on the Interim Plan. Specific tasks for accomplishing near term levee improvements have been described in the comments of the Natural Resource Defense Council (May 12, 2010 correspondence) and the Contra Costa Water District (May 12, 2010 correspondence).

Please call if you have questions on these comments.

Sincerely,

A handwritten signature in black ink, appearing to read "Steven L. Goetz", written over a horizontal line.

Steven L. Goetz, Deputy Director  
Conservation & Transportation Planning Programs

Cc: Contra Costa County Board of Supervisors  
R. Goulart, DCD  
L. Delaney, CAO  
M. Avalon, PWD